

CORRECTED

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-1344V

UNPUBLISHED

SARAH WELLS,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: May 11, 2022

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

Jeffrey S. Pop, Jeffrey S. Pop & Associates, Beverly Hills, CA, for Petitioner.

Sarah Christina Duncan, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On October 7, 2020, Sarah Wells filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, et seq.² (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (SIRVA) after receiving an influenza (flu) vaccination on October 17, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 10, 2021, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On May 10, 2022, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$80,000.00 for pain and suffering and \$1,327.56 to satisfy the State of California Medicaid lien. Proffer at 1-2. In the Proffer, Respondent represented that Petitioner agrees with the proffered

¹ Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner the following compensation:**

1. A lump sum payment of \$80,000.00 for pain and suffering in the form of a check payable to Petitioner, Sarah Wells.
2. A lump sum payment of \$1,327.56, representing compensation for satisfaction of a Medicaid lien, payable jointly to Petitioner and Department of Health Care Services, and mailed to:

Department of Health Care Services
Recovery Branch – MS 4720
P.O. Box 997421
Sacramento, CA 95899-7421
DHCS Account No.: C97674355E-VAC03

This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

SARAH WELLS,)	
)	
)	
Petitioner,)	
)	No. 20-1344V
v.)	Chief Special Master Corcoran
)	ECF
SECRETARY OF HEALTH AND HUMAN)	
SERVICES,)	
)	
Respondent.)	
)	

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

On October 7, 2020, Sarah Wells (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza vaccine she received in her left deltoid on October 18, 2017. Petition at 1.

On December 2, 2021, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report recommending that compensation be awarded for SIRVA, and the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation on December 10, 2021. ECF No. 21; ECF No. 22.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$80,000.00 in actual pain and suffering. Petitioner agrees.

B. Medicaid Lien

Respondent proffers that petitioner should be awarded funds to satisfy a California Medicaid lien in the amount of \$1,327.56, through:

Department of Health Care Services
Recovery Branch – MS 4720
P.O. Box 997421
Sacramento, CA 95899-7421
DHCS Account No.: C97674355E-VAC03

This sum represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the Department of Health Care Services may have against any individual as a result of any Medicaid payments the Department of Health Care Services has made to or on behalf of Sarah Wells from the date of her eligibility for benefits through the date of October 18, 2017, under Title XIX of the Social Security Act.

These amounts represent all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment as described below and requests that the Chief Special Master's decision and the Court's judgment award the following¹:

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future lost earnings and future pain and suffering.

- A. A lump sum payment of \$80,000.00, representing compensation for pain and suffering, in the form of a check payable to petitioner, Sarah Wells; and
- B. A lump sum payment of \$1,327.56, representing compensation for satisfaction of a California Medicaid lien, payable jointly to petitioner and Department of Health Care Services.

Petitioner agrees to endorse and mail this payment to Department of Health Care Services.

III. Summary of Recommended Payments Following Judgment

- | | | |
|----|--|--------------------|
| A. | Lump sum payable to petitioner, Sarah Wells: | \$80,000.00 |
| B. | Medicaid lien payable jointly to petitioner and
Department of Health Care Services: | \$1,327.56 |

Respectfully submitted,

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Torts Branch, Civil Division

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s/ Sarah C. Duncan
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DATED: May 10, 2022